

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

FILED

UNITED STATES OF AMERICA

V.

Juan Gabriel CORNELIO

(Name and Address of Defendant)

E-FILING

CRIMINAL COMPLAINT

2008 AUG -5 A 9:18

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

08-70505 PVT

CASE NUMBER:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 27, 2008, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

8/5/08
Date

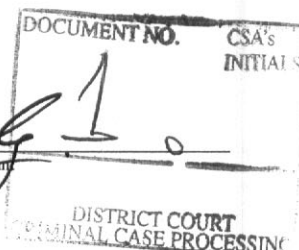
at

San Jose, California

City and State

Patricia Trumbull
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Patricia V. Trumbull
Signature of Judicial Officer



RE: Juan Gabriel CORNELIO

A92 148 560

I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Juan Gabriel CORNELIO (AKA: Miguel Angel CORNELIO), is a 30 year-old single male whose DOB is currently understood to be March 22, 1978. He is a citizen and native of Mexico as substantiated by multiple statements made to that effect by the DEFENDANT on both February 12, 2004 and, again on February 14, 2008 ;
- (2) The DEFENDANT has been assigned Alien Registration number of A 92 148 560, FBI number of 106030WA4, California Criminal State ID Number of A09782715 and PFN Number DRW144 ;
- (3) On November 24, 1999, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offenses of: ASSAULT WITH A DEADLY WEAPON, BY MEANS LIKELY TO PRODUCE GBI, a felony, in violation of California Penal Code Section 245 (A)(1) and sentenced to (3) years in prison. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(F);
- (4) On July 16, 2001, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed from the United States to Mexico by the EOIR Immigration Judge, Eloy Arizona;
- (5) On February 4, 2004, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: RESISTING, DELAYING, OBSTRUCTING AN OFFICER, a misdemeanor, in violation of California Penal Code Section 148(A)(1) and sentenced to (14) days in jail;
- (6) On February 12, 2004, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed from the United States to Mexico by the DRO/ICE Associate Special Agent in Charge, San Francisco, California;
- (7) On January 26, 2007, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: DISTURBING THE PEACE BY FIGHTING, LOUD NOISE, OR OFFENSIVE WORDS, a misdemeanor, in violation of California Penal Code Section 415 and sentenced to probation;

RE: Juan Gabriel CORNELIO

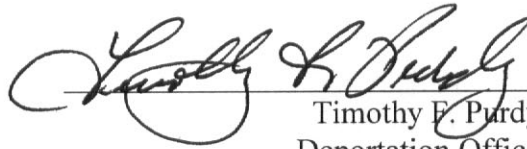
A92 148 560

- (8) On July 16, 2007, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: ASSAULT: LIKELY TO PRODUCE GREAT BODILY INJURY (GBI), a felony, in violation of California Penal Code Section 245(a)(1) and sentenced to (1) year in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(F);
- (9) On November 15, 2007, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed from the United States to Mexico by the DRO/ICE Assistant Field Office Director, San Francisco, California;
- (10) On February 13, 2008, the DEFENDANT was arrested by the Santa Clara Police Department for the offense of: DISORDERLY CONDUCT: INTOX DRUG & ALCOHOL, a misdemeanor, in violation of California Penal Code Section 647(F). The result was: a Suspended Sentence and the DEFENDANT was released into ICE custody;
- (11) On February 20, 2008, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed from the United States to Mexico by the DRO/ICE Assistant Field Office Director, San Francisco, California;
- (12) On May 25, 2008, the DEFENDANT was arrested by the Santa Clara Police Department for the offense of: FIGHTING/CHALLENGE IN A PUBLIC PLACE, a misdemeanor, in violation of: California Penal Code Section 417(1). This charge was dismissed upon a guilty plea from the DEFENDANT to a probation violation of the July 16, 2007 conviction of: ASSAULT: LIKELY TO PRODUCE GREAT BODILY INJURY (GBI), a felony, in violation of California Penal Code Section 245(a)(1). The DEFENDANT was subsequently sentenced to (2) years in jail;
- (13) The DEFENDANT, on a date unknown, but no later than February 27, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, Section 1326. On February 28, 2008, the DEFENDANT was interviewed by (IEA) Vargas at the Santa Clara County Jail, San Jose, CA, and during the interview, the DEFENDANT was read the DEFENDANT of his **Miranda** rights in the English language;
- (14) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;

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- (15) On May 28, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedure at DRO/ICE San Jose. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Juan Gabriel CORNELIO on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical.
- (16) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.

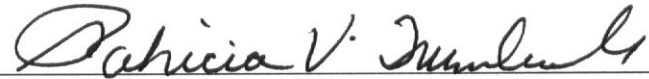


Timothy F. Purdy

Deportation Officer

Immigration and Customs Enforcement

Subscribed and sworn to before me this 5 day of August, 2008



Patricia Trumbull

UNITED STATES MAGISTRATE JUDGE